

AMENDED IN SENATE APRIL 19, 2006

SENATE BILL

No. 1586

Introduced by Senator Lowenthal

February 24, 2006

An act to amend Sections ~~1808 and 24400~~ 1268.350 and 1268.360 of the Code of Civil Procedure, and to amend Sections 1808, 1808.1, 11101, 12811, and 24400 of, and to add Section 12810.6 to the Vehicle Code, relating to ~~vehicles~~ government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1586, as amended, Lowenthal. ~~Vehicles: department of motor vehicles records: public access: headlamps: inclement weather. Government: eminent domain and inverse condemnation: vehicles.~~

(1) Existing law defines "apportionment rate" for the purposes of computing interest when awarding compensation in eminent domain and inverse condemnation proceedings.

This bill would revise the definition of "apportionment rate" for these purposes to require the computation to be based on a calendar quarter time period.

(1)

(2) Existing law requires the Department of Motor Vehicles to make available to the public, under certain circumstances, abstracts of convictions and accident reports required to be sent to the department in Sacramento, for 7 years where a violation is designated as 2 points, as specified, and for 3 years for accidents and all other violations.

This bill would extend the time that the department is required to make available to the public the abstracts of convictions, under specified sections prohibiting operation of a motor vehicle under the influence of drugs, alcohol, or both, from 7 to 10 years.

(3) Existing law imposes on the employer of a driver who drives one of several specified vehicles, including a vehicle for the operation of which the driver is required to have a school bus or school pupil activity bus certificate, as specified, several requirements related to the driver's public record. A violation of those requirements is a crime.

This bill would delete from that list of vehicles an erroneous cross-reference, and include in that list of vehicles a vehicle for the operation of which the driver is required to have an ambulance driver's certificate, as specified. By changing the definition of a crime, the bill would impose a state-mandated local program.

(4) Existing law requires that an application for a driver's license or identification card contain a space for an applicant, age 16 or older, to give his or her consent to be an organ or tissue donor upon death.

This bill would delete the requirement that the applicant be age 16 or older to give his or her consent to be an organ or tissue donor.

~~(2)~~

(5) Existing law requires, with limited exceptions, that, during darkness and inclement weather, a motor vehicle, other than a motorcycle, be equipped with at least 2, specifically located, lighted headlamps.

This bill would clarify and recast this offense to make clear it applies when the vehicle is being operated in the dark, or inclement weather, or both.

~~(3)~~

(6) Existing law requires any traffic conviction, involving the safe operation of a motor vehicle upon a highway, result in a violation point count.

This bill would exempt a person, convicted of operating a motor vehicle, without at least 2 specifically located and lighted headlamps, during darkness, or inclement weather, or both, from a traffic violation point count.

(7) This bill would make other technical changes to the Vehicle Code.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1268.350 of the Code of Civil Procedure
2 is amended to read:

3 1268.350. (a) As used in this section, “apportionment rate”
4 means the apportionment rate calculated by the Controller as the
5 rate of earnings by the Surplus Money Investment Fund for each
6 calendar quarter.

7 ~~(1) “Apportionment rate” means the apportionment rate~~
8 ~~calculated by the Controller as the rate of earnings by the Surplus~~
9 ~~Money Investment Fund for each six-month period.~~

10 ~~(2) “Six-month period” means the period from January 1 to~~
11 ~~June 30 and the period from July 1 to December 31.~~

12 (b) The rate of interest payable under this article for each
13 ~~six-month period calendar quarter~~, or fraction thereof, for which
14 interest is due, shall be the apportionment rate for the
15 immediately preceding ~~six-month period calendar quarter~~.

16 (c) Each district office of the Department of Transportation
17 shall quote the apportionment rate to any person upon request.

18 SEC. 2. Section 1268.360 of the Code of Civil Procedure is
19 amended to read:

20 1268.360. The interest payable for each ~~six-month period~~
21 ~~calendar quarter~~ shall draw interest, computed as prescribed by
22 Section 1268.350, in each succeeding ~~six-month period calendar~~
23 ~~quarter~~ for which interest is due.

24 SECTION 1.

25 SEC. 3. Section 1808 of the Vehicle Code is amended to read:

26 1808. (a) Except where a specific provision of law prohibits
27 the disclosure of records or information or provides for
28 confidentiality, all records of the department relating to the
29 registration of vehicles, other information contained on an
30 application for a driver’s license, abstracts of convictions, and
31 abstracts of accident reports required to be sent to the department
32 in Sacramento, except for abstracts of accidents where, in the
33 opinion of a reporting officer, another individual was at fault,

1 shall be open to public inspection during office hours. All
2 abstracts of accident reports shall be available to law
3 enforcement agencies and courts of competent jurisdiction.

4 (b) The department shall make available or disclose abstracts
5 of convictions and abstracts of accident reports required to be
6 sent to the department in Sacramento, as described in subdivision
7 (a), if the date of the occurrence is not later than the following:

8 (1) Ten years for a violation pursuant to Sections 23140,
9 23152, or 23153.

10 (2) Seven years for a violation designated as two points
11 pursuant to Section 12810, except as provided in paragraph (1) of
12 this subdivision.

13 (3) Three years for accidents and all other violations.

14 (c) The department shall make available or disclose
15 suspensions and revocations of the driving privilege while the
16 suspension or revocation is in effect and for three years following
17 termination of the action or reinstatement of the privilege, except
18 that driver's license suspension actions taken pursuant to
19 Sections 13202.6 and 13202.7, or Section 256 or 11350.6 of the
20 Welfare and Institutions Code shall be disclosed only during the
21 actual time period in which the suspension is in effect.

22 (d) The department shall not make available or disclose a
23 suspension or revocation that has been judicially set aside or
24 stayed.

25 (e) The department shall not make available or disclose
26 personal information about a person unless the disclosure is in
27 compliance with the Driver's Privacy Protection Act of 1994 (18
28 U.S.C. Sec. 2721 et seq.). However, a disclosure is subject to the
29 prohibition in paragraph (2) of subdivision (a) of Section
30 12800.5.

31 (f) The department shall make available or disclose to the
32 courts and law enforcement agencies a conviction of Section
33 23103, as specified in Section 23103.5, or a conviction of Section
34 23140, 23152, or 23153, or Section 655 of the Harbors and
35 Navigation Code, or paragraph (1) of subdivision (c) of Section
36 192 of the Penal Code for a period of 10 years from the date of
37 the offense for the purpose of imposing penalties mandated by
38 this code, or by other applicable provisions of California law.

39 (g) The department shall make available or disclose to the
40 courts and law enforcement agencies a conviction of Section

191.5, or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, punished as a felony, for the purpose of imposing penalties mandated by Section 23550.5, or by other applicable provisions of California law.

SEC. 4. Section 1808.1 of the Vehicle Code is amended to read:

1808.1. (a) The prospective employer of a driver who drives ~~any~~ a vehicle specified in subdivision (k) shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days prior to the date the employer employs the driver. The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull-notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to ~~any~~ an authorized representative of the Department of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives ~~any~~ a vehicle specified in subdivision (k) shall participate in a pull-notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled. As used in this section, participation in the pull-notice system means obtaining a requester code and enrolling all employed drivers who drive ~~any~~ a vehicle specified in subdivision (k) under that requester code.

(c) The employer of a driver of ~~any~~ a vehicle specified in subdivision (k) shall, additionally, obtain a periodic report from the department at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. ~~The reports~~ report shall be presented upon demand to ~~any~~ an authorized representative of the

1 Department of the California Highway Patrol during regular
2 business hours.

3 (d) Upon the termination of a driver's employment, the
4 employer shall notify the department to discontinue the driver's
5 enrollment in the pull-notice system.

6 (e) For the purposes of the pull-notice system and periodic
7 report process required by subdivisions (b) and (c), ~~owners an~~
8 ~~owner, other than owner-operators an owner-operator~~ as defined
9 in Section 34624, and ~~employers an employer who drive vehicles~~
10 ~~drives a vehicle~~ described in subdivision (k) shall be enrolled as
11 ~~if they were employees he or she were an employee. Family~~
12 ~~members A family member and a volunteer-drivers driver who~~
13 ~~drive vehicles drives a vehicle~~ described in subdivision (k) shall
14 also be enrolled as ~~if they he or she were employees an~~
15 ~~employee.~~

16 (f) An employer who, after receiving ~~any a~~ driving record
17 pursuant to this section, employs or continues to employ as a
18 driver ~~any a~~ person against whom a disqualifying action has been
19 taken regarding his or her driving privilege or required driver's
20 certificate, is guilty of a public offense, and upon conviction
21 thereof, shall be punished by confinement in a county jail for not
22 more than six months, by a fine of not more than one thousand
23 dollars (\$1,000), or by both that confinement and fine.

24 (g) As part of its inspection of bus maintenance facilities and
25 terminals required at least once every 13 months pursuant to
26 subdivision (c) of Section 34501, the Department of the
27 California Highway Patrol shall determine whether each transit
28 operator, as defined in Section 99210 of the Public Utilities
29 Code, is then in compliance with this section and Section
30 12804.6, and shall certify each operator found to be in
31 compliance. ~~No funds Funds shall not be allocated under~~
32 ~~pursuant to~~ Chapter 4 (commencing with Section 99200) of Part
33 11 of Division 10 of the Public Utilities Code to a transit operator
34 ~~which that~~ the Department of the California Highway Patrol has
35 not certified ~~under pursuant to~~ this section.

36 (h) A request to participate in the pull-notice system
37 established by this section shall be accompanied by a fee
38 determined by the department to be sufficient to defray the entire
39 actual cost to the department for the notification service. For the
40 receipt of subsequent reports, the employer shall also be charged

1 a fee established by the department pursuant to Section 1811.
2 ~~Any~~ An employer who qualifies ~~under~~ pursuant to Section 1812
3 shall be exempt from any fee required ~~under~~ pursuant to this
4 section. Failure to pay the fee shall result in automatic
5 cancellation of the employer's participation in the notification
6 services.

7 (i) The department, as soon as feasible, may establish an
8 automatic procedure to provide the periodic reports to ~~employers~~
9 an employer by mail or via an electronic delivery method, as
10 required by subdivision (c), on a regular basis without the need
11 for individual requests.

12 (j) (1) The employer of a driver who is employed as a casual
13 driver is not required to enter that driver's name in the pull-notice
14 system, as otherwise required by subdivision (a). However, the
15 employer of a casual driver shall be in possession of a report of
16 the driver's current public record as recorded by the department,
17 prior to allowing a casual driver to drive ~~any~~ a vehicle specified
18 in subdivision (k). A report is current if it was issued less than six
19 months prior to the date the employer employs the driver.

20 (2) For the purposes of this subdivision, a driver is employed
21 as a casual driver when the employer has employed the driver
22 less than 30 days during the preceding six months. "Casual
23 driver" does not include ~~any~~ a driver who operates a vehicle that
24 requires a passenger transportation endorsement.

25 (k) This section applies to ~~any~~ a vehicle for the operation of
26 which the driver is required to have a ~~class 1, class 2,~~ class A; or
27 class B driver's license, a class C license with a hazardous
28 materials endorsement, a class C license issued pursuant to
29 Section 12814.7, or a certificate issued pursuant to Section ~~12512~~
30 2512, 12517, 12519, 12520, 12523, or 12523.5, or ~~any~~ a
31 passenger vehicle having a seating capacity of not more than 10
32 persons, including the driver, operated for compensation by a
33 charter-party carrier of passengers or passenger stage corporation
34 pursuant to a certificate of public convenience and necessity or a
35 permit issued by the Public Utilities Commission.

36 (l) This section shall not be construed to change the definition
37 of "employer," "employee," or "independent contractor" for any
38 purpose.

39 (m) A motor carrier who contracts with ~~any~~ a person to drive
40 ~~any~~ a vehicle described in subdivision (k) ~~which~~ that is owned

1 by, or leased to, that motor carrier, shall be subject to
2 subdivisions (a), (b), (c), (d), (f), (j), (k), and (l) and the employer
3 obligations ~~therein~~ *in those subdivisions*.

4 *SEC. 5. Section 11101 of the Vehicle Code is amended to*
5 *read:*

6 11101. (a) This chapter does not apply to any of the
7 following:

8 (1) Public schools or educational institutions in which driving
9 instruction is part of the curriculum.

10 (2) Nonprofit public service organizations offering instruction
11 without a tuition fee.

12 (3) Nonprofit organizations engaged exclusively in giving
13 off-the-highway instruction in the operation of motorcycles, if
14 the course of instruction is approved by the National Highway
15 Traffic Safety Administration and is not designed to prepare
16 students for examination by the department for ~~a class 4~~ *an M1*
17 *or M2 drivers license or endorsement*.

18 (4) Commercial schools giving only off-the-highway
19 instruction in the operation of special construction equipment, as
20 defined in this code.

21 (5) Vehicle dealers or their salesmen giving instruction
22 without charge to purchasers of motor vehicles.

23 (6) Employers giving instruction to their employees.

24 (7) Commercial schools engaged exclusively in giving
25 off-the-highway instruction in the operation of racing vehicles or
26 in advanced driving skills to persons holding valid drivers'
27 licenses, except whenever that instruction is given to persons
28 who are being prepared for examination by the department for
29 any class of driver's license.

30 (b) For purposes of this section, "racing vehicle" means a
31 motor vehicle of a type that is used exclusively in a contest of
32 speed and ~~which~~ *that* is not intended for use on the highways.

33 (c) (1) Nothing in this chapter shall be construed to direct or
34 restrict courses of instruction in driver education offered by
35 private secondary schools or to require the use of credentialed or
36 certified instructors in driver education courses offered by private
37 secondary schools.

38 (2) For the purposes of this section, private secondary schools
39 are those subject to Sections 33190 and 48222 of the Education
40 Code.

~~SEC. 2.~~

SEC. 6. Section 12810.6 is added to the Vehicle Code, to read:

12810.6. Notwithstanding any other provision of law, a violation point shall not be given for a conviction of a violation of Section 24400.

SEC. 7. *Section 12811 of the Vehicle Code, as amended by Section 1 of Chapter 665 of the Statutes of 2005, is amended to read:*

12811. (a) (1) (A) When the department determines that the applicant is lawfully entitled to a license, it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall contain the distinguishing number assigned to the applicant, the date of expiration, the true full name, age, and mailing address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification, and space for the signature of the licensee.

(B) Each license shall also contain a space for the endorsement of a record of each suspension or revocation thereof.

(C) The department shall use whatever process or processes, in the issuance of engraved or colored licenses, that prohibit, as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on the license without ready detection.

(2) In addition to the requirements of paragraph (1), a license issued to a person under 18 years of age shall display the words "provisional until age 18."

(b) (1) The front of an application for an original or renewal of a driver's license or identification card shall contain a space for ~~any an~~ applicant, ~~age 16 or older~~, to give his or her consent to be an organ and tissue donor upon death. An applicant who gives consent shall be directed to read a statement on the back of the application that shall contain the following statement:

"If you marked on the front of the application that you want to be an organ and tissue donor upon death, your consent shall serve as a legally binding document as outlined under the California Uniform Anatomical Gift Act. Except in the case where the donor is under the age of 18, the donation does not require the consent of any other person. For donors under the age of 18, the

1 legal guardian of the ~~donee~~ *donor* shall make the final decision
2 regarding the donation. If you want to change your decision to
3 consent in the future, or if you want to limit the donation to
4 specific organs or tissues, you must contact Donate Life
5 California by mail at 1760 Creekside Oaks Drive, #160,
6 Sacramento, CA 95833, or through the World Wide Web at
7 www.donateLIFEcalifornia.org, or
8 www.doneVIDAcalifornia.org.”

9 (2) Notwithstanding any other provision of law, a person
10 under age 18 may register as a donor. However, the legal
11 guardian of that person shall make the final decision regarding
12 the donation.

13 (3) The department shall collect donor designation information
14 on all applications for an original or renewal driver’s license or
15 identification card.

16 (4) The department shall print the word “DONOR” or another
17 appropriate designation on the face of a driver’s license or
18 identification card to a person who registered as a donor on a
19 form issued ~~under~~ *pursuant to* this section.

20 (5) On a weekly basis, the department shall electronically
21 transmit to Donate Life California, a nonprofit organization
22 established and designated as the California Organ and Tissue
23 Donor Registrar pursuant to Section 7152.7 of the Health and
24 Safety Code, all of the following information on every applicant
25 that has indicated his or her willingness to participate in the
26 organ donation program:

27 (A) His or her true full name.

28 (B) His or her residence or mailing address.

29 (C) His or her date of birth.

30 (D) His or her California driver’s license number or
31 identification card number.

32 (6) (A) A person who applies for an original or renewal
33 driver’s license or identification card may designate a voluntary
34 contribution of two dollars (\$2) for the purpose of promoting and
35 supporting organ and tissue donation. This contribution shall be
36 collected by the department, and treated as a voluntary
37 contribution to Donate Life California and not as a fee for the
38 issuance of a driver’s license or identification card.

39 (B) The department may use the donations collected ~~under~~
40 *pursuant to* this paragraph to cover its actual administrative costs

1 incurred ~~under~~ *pursuant to* paragraphs (3) to (5), inclusive. The
2 department shall deposit all revenue derived ~~under~~ *pursuant to*
3 this paragraph and remaining after the department's deduction
4 for administrative costs in the Donate Life California Trust
5 Subaccount, ~~which~~ *that* is hereby created in the Motor Vehicle
6 Account in the State Transportation Fund. Notwithstanding
7 Section 13340 of the Government Code, all revenue in this
8 subaccount is continuously appropriated, without regard to fiscal
9 years, to the Controller for allocation to Donate Life California
10 and shall be expended for the purpose of increasing participation
11 in organ donation programs.

12 (7) The enrollment form shall be posted on the Internet Web
13 sites for the department and the California Health and Human
14 Services Agency.

15 (8) The enrollment shall constitute a legal document ~~under~~
16 *pursuant to* the Uniform Anatomical Gift Act (Chapter 3.5
17 (commencing with Section 7150) of Part 1 of Division 7 of the
18 Health and Safety Code) and shall remain binding after the
19 donor's death despite any express desires of next of kin opposed
20 to the donation. Except as provided in paragraph (2) of
21 subdivision (b), the donation does not require the consent of any
22 other person.

23 (9) Donate Life California shall ensure that all additions and
24 deletions to the California Organ and Tissue Donor Registry,
25 established pursuant to Section 7152.7 of the Health and Safety
26 Code, shall occur within 30 days of receipt.

27 (10) Information obtained by Donate Life California for the
28 purposes of this subdivision shall be used for these purposes only
29 and shall not be disseminated further by Donate Life California.

30 (c) A public entity or employee shall not be liable for ~~any~~ loss,
31 detriment, or injury resulting directly or indirectly from false or
32 inaccurate information contained in the form provided pursuant
33 to subdivision (b).

34 (d) A contract shall not be awarded to ~~any~~ a nongovernmental
35 entity for the processing of driver's licenses, unless the contract
36 conforms to all applicable state contracting laws and all
37 applicable procedures set forth in the State Contracting Manual.

38 (e) This section shall become operative on July 1, 2006.

1 ~~SEC. 3.~~

2 SEC. 8. Section 24400 of the Vehicle Code is amended to
3 read:

4 24400. (a) A motor vehicle, other than a motorcycle, shall
5 be:

6 (1) Equipped with at least two headlamps, with at least one on
7 each side of the front of the vehicle, and, except as to vehicles
8 registered prior to January 1, 1930, they shall be located directly
9 above or in advance of the front axle of the vehicle. The
10 headlamps and every light source in any headlamp unit shall be
11 located at a height of not more than 54 inches nor less than 22
12 inches.

13 (2) Operated during darkness, or inclement weather, or both,
14 with at least two lighted headlamps that comply with paragraph
15 (1).

16 (b) As used in paragraph (2) of subdivision (a), “inclement
17 weather” is a weather condition that is either of the following:

18 (1) A condition that prevents a driver of a motor vehicle from
19 clearly discerning a person or another motor vehicle on the
20 highway from a distance of 1,000 feet.

21 (2) A condition requiring the windshield wipers to be in
22 continuous use due to rain, mist, snow, fog, or other precipitation
23 or atmospheric moisture.

24 SEC. 9. *No reimbursement is required by this act pursuant to*
25 *Section 6 of Article XIII B of the California Constitution because*
26 *the only costs that may be incurred by a local agency or school*
27 *district will be incurred because this act creates a new crime or*
28 *infraction, eliminates a crime or infraction, or changes the*
29 *penalty for a crime or infraction, within the meaning of Section*
30 *17556 of the Government Code, or changes the definition of a*
31 *crime within the meaning of Section 6 of Article XIII B of the*
32 *California Constitution.*